

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHI ZHANG,

Plaintiff,

Hon. Janet T. Neff

v.

Case No. 1:12-cv-00611

NATIONAL CREDIT SYSTEMS, INC.,

Defendant.

REPORT AND RECOMMENDATION

This matter was referred to the undersigned for purpose of an early settlement conference. The parties stipulated to and requested an early settlement conference with the undersigned (Dkt. 29). That request was granted by the Hon. Janet T. Neff (Dkt. 30) and a settlement conference was set for October 11, 2013. The order regarding settlement conference entered September 16, 2013 (Dkt. 31) stated clearly that the parties were to appear for the conference in person. Plaintiff filed an emergency motion requesting that plaintiff Chi Zhang be allowed to appear for the conference by telephone (Dkt. 32 and 33). The reason stated was that plaintiff was going to be in China on the scheduled date. The court ordered that plaintiff's motion was denied (Dkt. 34) but plaintiff's counsel was allowed to reschedule the conference for a time when plaintiff was available to attend on or before November 30, 2013. The conference was rescheduled to November 22, 2013, and then to November 25, 2013.¹

¹ The second adjournment was due to a scheduling conflict concerning the undersigned.

Plaintiff renewed his motion to attend the settlement conference via telephone, with expedited consideration requested (Dkt. 37). The court expeditiously denied this request (Dkt. 39).

Although plaintiff's counsel appeared for the November 25, 2013 settlement conference, plaintiff failed to abide by the court's orders and attend the conference. Defense counsel stated on the record that defendant's representative had traveled from Atlanta, Georgia. Defense counsel stated on the record that she traveled to the conference from Ann Arbor, Michigan. Plaintiff's counsel stated on the record that he traveled to the conference from Southfield, Michigan.

As such, the undersigned hereby recommends that this matter be dismissed pursuant to Fed. R. Civ. P. 41(b) and W.D.Mich. L.Civ.R. 41.1 for want of prosecution and failure to comply with the rules and orders of this court. Timely objections to this Report and Recommendation shall be considered Plaintiff's opportunity to show cause why this matter should not be dismissed.

Respectfully submitted,

Date: November 26, 2013

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within 14 days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).